

Rules

SUBSTITUTE OFFERED
AS AN AMENDMENT

July 24, 2020

13-0

OFFERED BY: MAYOR HORRIGAN, PRESIDENT SOMMERVILLE, COUNCILMAN
MALIK AND COUNCILWOMAN OMOBIEN

ORDINANCE NO. 226-2020 authorizing and directing the submission to the electors of the City of Akron of a proposal to amend and supplement Sections 71, 72, 103, 106, 108, 110, 111, 114 and 116 of the Charter of the City of Akron and to adopt a new Section 103a, to be voted upon at the next general citywide election on November 3, 2020; and declaring an emergency.

WHEREAS, the 2020 City of Akron Charter Review Commission met in open meetings as required by Charter section 142 and made recommendations for amendments to the Charter as agreed upon by a majority of Commission members and has presented those recommendations to Akron City Council; and

WHEREAS, in 2016, Akron voters overwhelmingly approved amendments to the City's Charter to provide for the creation of a Department of Human Resources to consolidate all matters of personnel, employee relations, and employee health and welfare; and

WHEREAS, in furtherance of those improvements, additional changes should be made to the Charter to update terminology to reflect modern human resources functions and practices and to clarify the duties and responsibilities of the Commission, Director of Human Resources, and Department of Human Resources.

NOW, THEREFORE, BE IT ENACTED by the Council of the City of Akron, Ohio:

Section 1. That this Council hereby authorizes and directs the submission to the electors of the City of Akron at the next citywide municipal election to be held at the usual places of voting in said City on November 3, 2020, between the hours of 6:30 a.m. and 7:30 p.m. Eastern Standard Time of said day, of a proposal to amend the Charter of the City of Akron.

Section 2. That the ballots for said election shall, at the top thereof, be entitled "City of Akron Proposed Charter Amendment," and the question to be separately submitted on said ballot shall be as follows:

Charter Issue No. _____ - Shall the proposed amendments to the Charter of the City of Akron amending and supplementing Sections 71, 72, 103, 106, 108, 110, 111, 114 and 116 thereof and section 103a be adopted so that those sections shall provide as follows:

A. SECTION 71. - REMOVAL OF DIVISION CHIEFS.

The Mayor shall have the exclusive right to suspend, reduce in rank or dismiss the Chiefs of the Divisions of Police or Fire for incompetence, inefficiency, abuse of chemical

substances, disorderly or immoral conduct, discourteous treatment of any citizen or of the public at large, insubordination, neglect of duty or for any other just and reasonable cause. In case of such suspension, reduction in rank or dismissal, the Mayor shall forthwith certify the fact, together with the cause therefor, to the Human Resources Commission, in accordance with the Administrative Rules of the Human Resource Commission. The Human Resources Commission shall proceed to review such charges and render judgment thereon, which judgment may affirm, reverse or modify the judgment of the Mayor.

B. SECTION 72. – REMOVAL OF OFFICERS AND EMPLOYEES.

The Mayor shall have the right to suspend, reduce in rank or dismiss any officer or employee in the Divisions of Police and Fire and the Chiefs of the Divisions of Police and Fire shall have the right to suspend and/or recommend the reduction in rank or dismissal of any officers or employees in the said division for incompetence, inefficiency, abuse of chemical substances, disorderly or immoral conduct, discourteous treatment of any citizen or of the public at large, insubordination, neglect of duty, for violation of the rules and regulations, policies and procedures, of the Police Division, Fire Division or Department of Human Resources, or for any other just and reasonable cause. In the event that such suspension and/or recommendation is made by the Police or Fire Chief, the said Chief shall forthwith, in writing, submit the cause therefor to the Mayor, who, through his/her designee, shall afford the employee a hearing on said cause and render a decision, if the charge be sustained, of suspension, reduction in rank, or dismissal; provided, however, that an appeal of the decision of the Mayor may be had to the Human Resource Commission in accordance with the Administrative Rules of the Human Resource Commission or as set forth in a collective bargaining agreement, if applicable.

C. SECTION 103. – THE HUMAN RESOURCES COMMISSION.

The Human Resources Commission shall consist of three (3) electors of the City, and no more than two (2) shall be adherents of the same political party. The Human Resources Commissioners shall be appointed by the Mayor, with the consent of Council, and shall be persons with experience in human resources administration, personnel administration, public administration, labor relations, law, or a related field. The term of office of a Human Resources Commissioner shall be three (3) years. The terms of the three (3) Commissioners shall be staggered so that no term expires within less than one (1) year of the expiration of any other term. A Commissioner shall continue in office after the expiration of the term until a successor takes office. A vacancy occurring during a term shall be filled by the Mayor for the unexpired term with the consent of Council in the same manner as a regular appointment.

No member of the Commission shall hold any other public office or public employment which is incompatible with the duties and functions of the Human Resources Commission.

The Mayor shall have the power to remove any Commissioner for cause, after notice and a hearing before Council, provided that two-thirds of the members of Council concur.

D. SECTION 106. – DEPARTMENT OF HUMAN RESOURCES POLICIES AND PROCEDURES.

The Department of Human Resources shall provide for the development, execution, and management of civil service and human resources programs, shall enact and enforce procedures and policies, and shall have all such other human resources duties and responsibilities for the establishment and administration of the workforce. The Director of Human Resources shall have the power to establish and abolish new classifications and allocate and reallocate any position in the classified service on the basis of duties, responsibilities, requirements, and qualifications of that position.

In any matter where a policy or procedure adopted by the Department of Human Resources conflicts with any provision of the laws, rules or regulations of the State of Ohio, the policy, procedure, rule, regulation, order, decision or procedural rule or regulation of the Department of Human Resources shall govern.

It is hereby provided and the policies and procedures shall provide:

1. For the classification and standardization of all positions in the classified service. The classification into groups and subdivisions shall be based upon and graded according to their duties and responsibilities, and so arranged as to permit the filling of the higher grades, so far as practicable through promotion. All salaries shall be uniform for like service in each grade, as the same shall be standardized and classified by the Department of Human Resources.
2. For open competitive examinations to be given under the direction of the Director of Human Resources to test the relative merit and fitness of applicants for such positions. Employees of any public utility or agency taken over by the City who have been in the service of said utility or agency for three (3) years prior to the time of such acquisition shall come under the provisions of the merit and fitness system without examination; but vacancies thereafter occurring in such service shall be filled from eligible lists in the manner herein provided.
3. For non-competitive testing to be given under the direction of the Director of Human Resources to determine the merit and fitness of applicants for classified positions of a scientific, managerial, advanced professional, or advanced educational character.
4. For public notice of all open and promotional job opportunities.
5. For the creation by the Director of Human Resources of eligible lists upon which shall be entered the names of successful candidates in the rank order of their standing in such examination or test.

6. For the rejection by the Director of Human Resources of candidates who failed to meet reasonable qualification requirements, or who have attempted deception or fraud in connection with any application or examination and for such other reasons as set forth in procedures and policies.
 - 6a. (Repealed; Amendment adopted by electors 11-4-80)
 - 6b. For declaring methods of granting preference points to the passing grades of those persons taking examinations.
7. For the certification to the appointing authority by the Director of Human Resources from the appropriate eligible list to fill vacancies in the classified service of the persons with the ten (10) highest scores on such list, or of the person or persons on such list when the same contains less than ten (10) scores.
8. For promotion based on competitive examinations and seniority. Lists shall be created and promotions made in the same manner as in original appointments. Any advancement from one job classification to another for which the maximum rate of pay is higher shall constitute promotion. Whenever practicable, vacancies shall be filled by promotion.
9. For transfer from a position to a similar position in the same grade and for reinstatement on the eligible list within one year of persons who, without fault or delinquency on their part, are separated from the service or reduced in rank.
10. For provisional emergency appointments when it is necessary in the interest of public safety, welfare or economy to employ persons most readily available for the performance of certain work. Upon receipt of a request from the Mayor citing the need for provisional emergency appointment(s), the Director of Human Resources shall authorize one or more provisional emergency appointment(s) as needed. Provisional emergency appointments may be cancelled at any time by the Mayor.
11. (Repealed; V 107 p 582; approved by voters Nov. 2, 1971)
12. (Repealed; V 107 p 582; Approved by voters Nov. 2, 1971)
13. For investigating and keeping a record of the efficiency of officers and employees in the classified service, and for requiring performance evaluations and records relative thereto. Each employee's own record shall be available for his/her inspection at all times.
14. For a period of probation before an appointment or employment is made permanent, during which period a probationer may be discharged or reduced by the appointing authority without the right of appeal to the Commission; provided, however, that said probationary period shall be extended for each class of employee, for that period of time which is equivalent to the period of time during which employees entering service in that classification are required to participate in formal, full-time training programs.

15. For policies and procedures regarding layoffs, furloughs, and job abolishments.
16. Such other rules shall be adopted which are not inconsistent with the foregoing provisions of this section as may be necessary and appropriate for the enforcement of the merit and fitness system.

E. SECTION 108. – APPOINTMENTS.

When a position in the classified service is to be filled, the appointing authority shall notify the Director of Human Resources of the fact and the Director of Human Resources shall certify to such authority the names and contact information for no more than ten (10) candidates standing highest on the appropriate eligible list for the position. In the event of ties in total final grade or final score, those persons having final tie grades or final tie scores shall also be certified in their relative position on the eligible list as additional candidates. The appointing authority shall immediately appoint one of the persons certified to such position provided such position is budgeted and funded.

When the eligible list contains less than ten names, then such names shall be certified to the appointing authority for selection. If the list contains fewer than four names, a full certification may be requested. When no eligible list for such position exists or when the eligible list has become exhausted and until a new list can be created, the appointing authority may make a provisional appointment for a period of time as set forth by the Director of Human Resources. A person certified three times from an eligible list to the same or similar position may be removed from the eligible list.

The Director of Human Resources may provide for appointments that are temporary, provisional, or seasonal in nature.

F. SECTION 110. – CERTIFICATION OF PAYROLL.

It shall be unlawful for the Director of Finance or other public disbursing officer to pay any salary or compensation for service to any person holding a position in the classified service unless the payroll or account for such salary or compensation shall bear the signature of the Director of Human Resources that the persons named therein have been appointed or employed in accordance with the Human Resources provisions of this Charter and of the rules, policies and procedures established thereunder. Any sums paid contrary to the provisions of this section may be recovered from any officer paying or authorizing the payment thereof and from sureties on the officer's official bond.

G. SECTION 111. – INVESTIGATIONS.

In any investigation conducted by the Mayor or Department of Human Resources, the Mayor or Department of Human Resources shall have the power to subpoena and require the attendance of witnesses and the production of records pertinent to the investigation.

H. SECTION 114. – SALARIES AND APPROPRIATIONS.

The salaries of the Human Resources Commissioners shall be determined by the Council. Council shall appropriate to the Human Resources Commission a sufficient sum each year to carry out the duties and responsibilities defined in this Charter.

I. SECTION 116. - SUSPENSION, REDUCTION AND DISMISSAL FROM SERVICE.

The Mayor or his designee may suspend, reduce in grade and compensation or dismiss any permanent employee in the classified service for just and reasonable cause and upon specific written charges. A copy of the charges and any response, if in writing, shall be filed with the Department of Human Resources. The employee shall be afforded a hearing. In any dismissal, reduction, or suspension of an employee who has passed the original probationary period, said employees may appeal in writing to the Human Resources Commission or as set forth in a collective bargaining agreement, if applicable.

Upon a written charge of misconduct preferred by any citizen of the City, the Mayor may suspend, reduce in grade and compensation, or dismiss any employee of the classified service, but only after reasonable notice to the accused and a full hearing, and with the same rights as hereinbefore stated.

J. SECTION 103a. – HUMAN RESOURCES COMMISSION POWERS AND DUTIES.

The Human Resources Commission shall adopt rules and regulations for the transaction of Commission business, consistent with this Charter. The Director of Human Resources, or his designee, shall keep the minutes of the proceedings of the Commission.

A. Powers and Duties. The Human Resources Commission shall have the following powers and duties:

1. To hear and rule on properly filed appeals of permanent employees in the classified service that have been subject to disciplinary action that results in the dismissal, suspension, or reduction in grade or compensation due to a disciplinary demotion of the employee.
 - a. The Commission shall establish timelines to hear such appeals as set forth herein.
 - b. The Commission may affirm, reverse, or modify the suspension, dismissal, or reduction in grade or compensation.
2. To issue subpoenas to compel the appearance of witnesses and the production of records pertinent to the matter before it and to administer oaths to such witnesses.

3. To establish its meeting dates and times.

B. Appeals. Either the employee or appointing authority may appeal the decision of the Human Resource Commission to the Court of Common Pleas pursuant to Ohio Revised Code Chapter 2506.

Section 3. That is the desire and request of this Council that the ballot for said question shall be substantially in the following form:

PROPOSED CHARTER AMENDMENTS

CITY OF AKRON

A Majority Affirmative Vote Is
Necessary For Passage

Shall Charter sections 71, 72, 103, 106, 108, 110, 111, 114 and 116 be amended and a new Section 103a adopted to expand the selection pool for hiring to increase access to opportunity; define the duties and functions of the Human Resources Commission and the Director and Department of Human Resources; clarify the process for hearings and appeals for classified employees and the hiring process based upon principles of merit and fitness; and update rules related to probationary and temporary employees; all while preserving protections against political patronage in City hiring?

YES

NO

Section 4. That the Clerk of Council is hereby directed to certify a copy of this ordinance to the Board of Elections of Summit County, Ohio immediately upon the passage of this ordinance.

Section 5. That the Clerk of Council is hereby directed and authorized to have the full text of the above proposed Charter amendments published once a week for not less than two (2) consecutive weeks in a newspaper published and of general circulation in said City with the first publication being at least fifteen (15) days prior to the election at which said amendment is to be submitted to the electors of this City.

Section 6. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare for the reason that its immediate effectiveness is necessary to place the amendment to the Charter on the November ballot, and provided this ordinance receives the vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, as may be required by law; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed July 27, 2020

Wanda R. Biviano, Deputy Mayor Steve
Clerk of Council President of Council

Approved: 7/30, 2020

Don Hyatt
MAYOR

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AKRON CITY COUNCIL